

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

MINUTES

April 7, 2016

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, April 7, 2016 at 1:30 p.m., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Carol Neugent, Chair; David Dennis, Vice Chair; John Dailey; Bob Dool; Bill Ellison; David Foster; Matt Goolsby; Joe Johnson; John McKay Jr.; Bill Ramsey; Lowell Richardson; John Todd and Chuck Warren. Members absent were: Debra Miller Stevens. Staff members present were: Dale Miller, Director; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; Jess McNeely, Senior Planner; Derrick Slocum, Administrative Supervisor; Mike Papoon, Assistant City Attorney; and Maryann Crockett, Recording Secretary

1. Approval of the March 3, 2016 Planning Commission Minutes.

MOTION: To approve the March 3, 2016 Planning Commission minutes.

DENNIS moved, **MCKAY** seconded the motion, and it carried (7-0-6). **DOOL, ELLISON, GOOLSBY, JOHNSON, RAMSEY** and **WARREN** – Abstained.

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **SUB2016-00007: Final Plat – M A A 2ND ADDITION**, located north of 47th Street South, east side of Broadway.

NOTE: This is a replat of the M A A Addition which includes the vacation of Santa Fe Avenue.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department requests the applicant extend sewer (laterals) to serve all lots, and extend water (distribution) to serve all lots.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) along with the corresponding dollar amounts shall be submitted to the Planning Department for recording.
- C. City Stormwater Management has approved the drainage plan.
- D. Traffic Engineering has approved the complete access control along Broadway.
- E. The Applicant shall guarantee the paving of the proposed streets.
- F. This property is within a zone identified by the City Engineer's office as likely to have groundwater at some or all times within ten feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineer's office.

- G. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- H. The depiction of the overlap of the drainage and utility easements between Lots 1 and 2 needs to be corrected.
- I. County Surveying advises the distance of 18.84 feet along the southerly line of Lot 2, Block A needs verified.
- J. The Register of Deeds Certificate shall include Judy J. Paget as Deputy.
- K. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted, installed and inspected.
- L. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- M. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer and unobstructed to allow for the conveyance of stormwater.
- N. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- O. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- P. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- Q. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- R. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and

Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

- S. Perimeter closure computations shall be submitted with the final plat tracing.
- T. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- U. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

FOSTER moved, **WARREN** seconded the motion, and it carried (13-0).

3. PUBLIC HEARING – VACATION ITEMS

- 3-1. VAC2016-00003: City request to vacate a portion of a platted drainage easement on property**, located south of 13th Street North, east of Hoover Road and southwest of 11th and Curtis Streets.

OWNER/AGENT: Jorge Pinedo & Irma Cabrera (owner)

LEGAL DESCRIPTION: Generally described as vacating a northeast portion of the 115-foot wide by 333-foot long platted drainage easement located on the west portion of Lot 2, Steve Kelly 4th Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located south of West 13th Street North, east of North Hoover Road and southwest of 11th and Curtis Streets (WCC II)

REASON FOR REQUEST: Build a garage

CURRENT ZONING: The site and all abutting and the adjacent properties are zoned SF-5 Single-Family Residential.

The applicant HAS requested the vacation of a northeast portion of the 115-foot wide by 333- foot long platted drainage easement located on the west portion of Lot 2, Steve Kelly 4th Addition. The subject easement is essentially an unbuildable portion of Lot 2's backyard and occupies approximately 75 percent of Lot 2. An east-west platted 30-foot wide drainage-utility easement is located on the south side of the east portion of Lot 2 and connects the subject easement with the Curtis Street right-of-way. There is

an open concrete drainage channel built within this easement from Curtis Street to the subject easement. Drainage from Curtis Street flows through the platted 30-foot wide drainage-utility easement into the subject easement, which is a natural low area that also receives drainage from the abutting north property. Stormwater has shown an area within the northeast portion of the subject easement that can be vacated and built on, which requires a survey of the site for review and approval by Stormwater. The site is located in an area of reduced flood risk due to levee.

There is a platted 20-foot wide by 333-foot long utility easement located between the buildable east portion of the subject lot and the subject easement. A sewer line and manholes are located in this 20-foot wide platted utility easement. The 20-foot wide platted utility easement will remain in effect and cannot be built on. Westar has no objection to this request condition, as conditions 3, 4 and 5 will cover Westar. Becky Thompson is the Construction Services Representative for this area and can be reached at 261-6320. The Steve Kelly 4th Addition was recorded September 2, 1994.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works, Water & Sewer, Stormwater, Traffic, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of the platted drainage easement.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
- (1) That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time February 25, 2016, which was at least 20 days prior to this public hearing.
 - (2) That no private rights will be injured or endangered by vacating the described portion of the platted drainage easement and that the public will suffer no loss or inconvenience thereby.
 - (3) In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) Provide a survey showing the area where the proposed garage and access will be built for review and approval by Stormwater. The approved survey will be an exhibit that will be recorded with the Vacation Order at the Sedgwick County Register of Deeds and must be provided to Planning prior to VAC2016-00003 proceeds to City Council for final action.
- (2) Provide a legal description of the vacated portion of the platted drainage and easement on a Word document via E-mail for the Vacation Order. This must be provided prior to VAC2016-00003 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (3) As needed provide easements for utilities. As needed provide letters from franchised utility representatives stating that their utilities are protected by the appropriate easements. These must be provided to Planning prior to the case going to the City Council for final action.

- (4) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to the City Council for final action.
- (5) All improvements shall be according to City Standards and at the applicants' expense.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Provide a survey showing the area where the proposed garage and access will be built for review and approval by Stormwater. The approved survey will be an exhibit that will be recorded with the Vacation Order at the Sedgwick County Register of Deeds and must be provided to Planning prior to VAC2016-00003 proceeds to City Council for final action.
- (2) Provide a legal description of the vacated portion of the platted drainage and easement on a Word document via E-mail for the Vacation Order. This must be provided prior to VAC2016-00003 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (3) As needed provide easements for utilities. As needed provide letters from franchised utility representatives stating that their utilities are protected by the appropriate easements. These must be provided to Planning prior to the case going to the City Council for final action.
- (4) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to the City Council for final action.
- (5) All improvements shall be according to City Standards and at the applicants' expense.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

MCKAY moved, **WARREN** seconded the motion, and it carried (13-0).

- **3-2. VAC2016-00007: City request to vacate a portion of a platted utility easement on property,** generally located west of I-35 and southeast of the 31st Street South and Navajo Street intersection.

OWNER/AGENT: Julius Properties, L.P., c/o Brad Julius (owner) Stinson Leonard Street, LLP, c/o Steve Vetter (agent)

LEGAL DESCRIPTION: Generally described as vacating the east 127 feet of the 16-foot wide platted utility easement located on both sides of the common lot line of Lots 5 & 7, Block 2, McCarty 2nd Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located west of I-35 and southeast of the 31st Street South and Navajo Street intersection (WCC III)

REASON FOR REQUEST: Appears to have no utilities located in it

CURRENT ZONING: The site, all abutting and adjacent properties are zoned LI Limited Industrial.

The applicant is requested the vacation of the east 127 feet of the 16-foot wide platted utility easement located on both sides of the common lot line of Lots 5 & 7, Block 2, McCarty 2nd Addition. The west portion of the subject easement was vacated November 12, 1986; V-0747, Film 847, Page 506. There are no public utilities located within the subject easement. Westar has no objection to this request condition, as conditions 2, 3 and 4 will cover Westar. LaDonna Vanderford is the contact for this area and can be reached at 261-6490. The McCarty 2nd Addition was recorded December 16, 1964.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works, Water & Sewer, Stormwater, Traffic, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of the platted utility easement.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time March 17, 2016, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by vacating the described portion of the platted utility easement and that the public will suffer no loss or inconvenience thereby.

3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) Provide a legal description of the vacated portion of the platted utility easement on a Word document via E-mail for the Vacation Order. This must be provided prior to VAC2016-00007 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (2) As needed provide easements for utilities. As needed provide letters from franchised utility representatives stating that their utilities are protected by the appropriate easements. These must be provided to Planning prior to the case going to the City Council for final action.
- (3) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to the City Council for final action.
- (4) All improvements shall be according to City Standards and at the applicants' expense.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Provide a legal description of the vacated portion of the platted utility easement on a Word document via E-mail for the Vacation Order. This must be provided prior to VAC2016-00007 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (2) As needed provide easements for utilities. As needed provide letters from franchised utility representatives stating that their utilities are protected by the appropriate easements. These must be provided to Planning prior to the case going to the City Council for final action.
- (3) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to the City Council for final action.
- (4) All improvements shall be according to City Standards and at the applicants' expense.

- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

MCKAY moved, **WARREN** seconded the motion, and it carried (13-0).

- **3-3. VAC2016-00008: City request to vacate a platted utility easement on property,**
located on the northeast corner of South West Street and West Harry Street.

APPLICANT/AGENT: Foley Industries Inc., c/o Lewis Erickson (applicant/owner) Ruggles & Bohm c/o Will Clevenger (agent)

LEGAL DESCRIPTION: Generally described as vacating the 16-foot wide by 600-foot long platted utility easement located on Lot 1, P.M.A. Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located on the northeast corner of S West Street and W Harry Street (WCC IV)

REASON FOR REQUEST: Development

CURRENT ZONING: The site, all abutting and adjacent properties are zoned LI Limited Industrial.

The applicant is requested the vacation of the 16-foot wide by 600-foot long platted utility easement located within Lot 1, P.M.A. Addition. There is a sewer line and a manhole(s) located within the subject easement. The sewer line extends north into the abutting property, located on both sides of the common lot lines of Lots 9 & 10, Los Coyas Addition; recorded June 14, 1948. Westar has no objection to this request, as conditions 2, 3 and 4 will cover Westar. Ennidh Garcia is the Construction Services Representative for this area and can be contacted at 261-6859. The P.M.A Addition was recorded March 10, 1966.

NOTE: This request is associated with VAC2015-00061 a request to vacate a portion of McComas Avenue public street right-of-way located between Harry and Walker Streets that abutted the applicant's property. VAC2015-00061 was approved by the City Council March 15, 2016.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works, Water & Sewer, Stormwater, Traffic, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of the platted utility easement.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time March 17, 2016, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by vacating the described portion of the platted utility easement and that the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) Provide a legal description of the vacated portion of the platted utility easement on a Word document via E-mail for the Vacation Order. This must be provided to Planning prior to VAC2016-00008 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (2) As needed provide easements for public and franchised utilities. As needed provide letters from franchised utility representatives stating that their utilities are protected by the appropriate easements. Easements for public utilities, with original signatures, must be provided to Planning prior to VAC2016-00008 proceeds to the City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (3) Provided Public Works-Sewer (and any other utility located within the subject easement) with a private project plan for the relocation/abandonment of the sewer line and manholes located within the subject easement for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to VAC2016-00008 proceeds to the City Council for final action.
- (4) All improvements shall be according to City Standards and at the applicants' expense.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Provide a legal description of the vacated portion of the platted utility easement on a Word document via E-mail for the Vacation Order. This must be provided to Planning prior to VAC2016-00008 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (2) As needed provide easements for public and franchised utilities. As needed provide letters from franchised utility representatives stating that their utilities are protected by the appropriate easements. Easements for public utilities, with original signatures, must be provided to Planning prior to VAC2016-00008 proceeds to the City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (3) Provided Public Works-Sewer (and any other utility located within the subject easement) with a private project plan for the relocation/abandonment of the sewer line and manholes located within the subject easement for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to VAC2016-00008 proceeds to the City Council for final action.
- (4) All improvements shall be according to City Standards and at the applicants' expense.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

MCKAY moved, WARREN seconded the motion, and it carried (13-0).

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- 3-4. **VAC2016-00009: City request to vacate multiple platted easements, platted reserves and amend their plattor's text, on properties,** generally located northeast of North Ridge Road and West 37th Street North, west and east of Solano Street, off of Mirabella Street, Solano Court, and Collina Street.

APPLICANT/AGENT: Tier 1 LLC & Estancia LLC, c/o Marv Schellenberg, Larry E & M Jeanine McKee (applicants/owners), MKEC, c/o Brian Lindebak (agent)

LEGAL DESCRIPTION: See attached legal provided by agent

LOCATION: Generally located northeast of North Ridge Road and West 37th Street North, west and east of Solano Street, off of Mirabella Street, Solano Court, and Collina Street (WCC V)

REASON FOR REQUEST: Adjustment to allow zero lot line development

CURRENT ZONING: Site, all abutting and adjacent properties are zoned SF-5 Single-Family Residential, with the exception of an abutting east property that is zoned SF-20 Single-Family Residential

The applicants are requesting the vacation of multiple platted easements, portions of platted Reserves B, G and O and amend the plat's text to change the uses allowed in the subject reserves all located in the Estancia Addition. Per the plat's text :

- (a) All reserves are platted for open space, berms, landscaping, irrigation, signs, monuments, sidewalks, fences, lighting, conveyance of cross lot drainage, and utilities confined to easements. *The plat's text for the described vacated portions of Reserves B, G and O shall be amended to allow SF-5 Single-Family Residential (SF-5) uses only.*
- (b) All reserves are owned and maintained by the developer and/or lot owner's association and/or their successors and/or assigns. *This remains.*
- (c) Reserves B, G and O are also platted for drainage facilities, including but not limited to drainage structures and detention/retention ponds. *The plat's text for the described vacated portions of Reserves B, G and O shall be amended to allow SF-5 Single-Family Residential (SF-5) uses only.*
- (d) Reserve G is platted for private neighborhood amenities, including but not limited to clubhouse, pools, playgrounds, sports courts, shade structures/gazebos, neighborhood gardens and parking. *The plat's text for the described vacated portions of Reserve G shall be amended to allow SF-5 Single-Family Residential (SF-5) uses only.*
- (e) Reserve B is also platted for walls, which utilities may cross under. *The plat's text for the described vacated portions of Reserve B shall be amended to allow SF-5 Single-Family Residential (SF-5) uses only.*

The plat's text shall also be amended as follows (underlined and italic parts reflect the changes): As to all Lots within Block 1, all Lots within Block 2, and Lots 1-13, inclusive, Block 4:

Said Lots are zero lot line lots. Each Lot where abutting and adjoining another zero lot line lot within the aforesaid Lots and Blocks shall provide a minimum of a 3.5 foot maintenance and access easement for the benefit of the adjoining owner(s), their successors and assigns, and/or their agents, and emergency personnel. The maintenance access easements are hereby platted for the purpose of pedestrian access, emergency access, construction, maintenance, and the extension of the footings and a 2 foot overhang of the structure onto the adjoining lot. Opposite of the zero lot line the minimum side yard setbacks shall be 6 feet. The residences with the 6 foot side yard setbacks shall construct a fire break wall. Only roof encroachments are permitted into said 6 foot side yard setback, moreover, no building cantilevers or equipment are permitted in the side yard and sight restrictions shall be maintained on the windows.

No public water, sewer or stormwater equipment is located within the subject easements. Westar will be working with the applicant and has contacted the agent for the applicant and will have no objection to this request as long as they provide new easements for Westar's equipment; conditions 2, 5 and 6 will cover Westar. Heide Bryan is the representative for this area and can be contacted at 261-6554. The Estancia Addition was recorded September 28, 2015.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works, Water & Sewer, Stormwater, Traffic, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described multiple platted easements, portions of platted reserves and vacating the plattor's text.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

- (1) That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time March 17, 2016, which was at least 20 days prior to this public hearing.
- (2) That no private rights will be injured or endangered by vacating the described multiple platted easements, portions of platted reserves and vacating the plattor's text and that the public will suffer no loss or inconvenience thereby.
- (3) In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) Provide a legible exhibit and an accurate and approved legal description of the vacated easements and portions of the platted Reserves B, G, and O, Estancia Addition. These will be recorded with the Vacation Order. This must be provided to Planning prior to VAC2016-00009 proceeding to City Council for final action.
- (2) Dedicate by separate instrument required easements and provide an exhibit(s) showing the dedications. The required easements with original signatures and exhibit(s) must be provided to Planning prior to VAC2016-00009 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (3) The plattor's text will be amended to allow single-family residential uses only in the vacated portions of Reserves B, G, and O, Estancia Addition. The plattor's text shall also be amended to read: As to all Lots within Block 1, all Lots within Block 2, and Lots 1-13, inclusive, Block 4: Said Lots are zero lot line lots. Each Lot where abutting and adjoining another zero lot line lot within the aforesaid Lots and Blocks shall provide a minimum of a 3.5 foot maintenance and access easement for the benefit of the adjoining owner(s), their successors and assigns, and/or their agents, and emergency personnel. The maintenance access easements are hereby platted for the purpose of pedestrian access, emergency access, construction, maintenance, and the extension of the footings and a 2 foot overhang of the structure onto the adjoining lot. Opposite of the zero lot line the minimum side yard setbacks shall be 6 feet. The residences with the 6 foot side yard setbacks shall construct a fire break wall. Only roof encroachments are permitted into said 6 foot side yard setback, moreover, no building cantilevers or equipment are permitted in the side yard and sight restrictions shall be maintained on the windows.

- (4) Provide a covenant, with original signatures, binding and tying the described vacated portions of Reserves B, G, and O, Estancia Addition to the applicant's abutting properties. This must be provided to Planning prior to VAC2016-00009 proceeding to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds and the Sedgwick County Appraisers Office. If covenants are not provided, provide Planning with copies of recorded Warranty Deeds, binding and tying the described vacated portions of Reserves B, G, and O, Estancia Addition to the applicant's abutting properties.
- (5) Provide all utilities with any needed project plans for the relocation of utilities for review and approval. Any relocation/reconstruction of utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number(s) to Planning prior to the case going to City Council for final action.
- (6) All improvements shall be according to City Standards and at the applicants' expense.
- (7) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Provide a legible exhibit and an accurate and approved legal description of the vacated easements and portions of the platted Reserves B, G, and O, Estancia Addition. These will be recorded with the Vacation Order. This must be provided to Planning prior to VAC2016-00009 proceeding to City Council for final action.
- (2) Dedicate by separate instrument required easements and provide an exhibit(s) showing the dedications. The required easements with original signatures and exhibit(s) must be provided to Planning prior to VAC2016-00009 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (3) The platlor's text will be amended to allow SF-5 Single-Family Residential uses in the vacated portions of Reserves B, G, and O, Estancia Addition. The platlor's text shall also be amended to read: As to all Lots within Block 1, all Lots within Block 2, and Lots 1-13, inclusive, Block 4: Said Lots are zero lot line lots. Each Lot where abutting and adjoining another zero lot line lot within the aforesaid Lots and Blocks shall provide a minimum of a 3.5 foot maintenance and access easement for the benefit of the adjoining owner(s), their successors and assigns, and/or their agents, and emergency personnel. The maintenance access easements are hereby platted for the purpose

of pedestrian access, emergency access, construction, maintenance, and the extension of the footings and a 2 foot overhang of the structure onto the adjoining lot. Opposite of the zero lot line the minimum side yard setbacks shall be 6 feet. The residences with the 6 foot side yard setbacks shall construct a fire break wall. Only roof encroachments are permitted into said 6 foot side yard setback, moreover, no building cantilevers or equipment are permitted in the side yard and sight restrictions shall be maintained on the windows.

- (4) Provide a covenant, with original signatures, binding and tying the described vacated portions of Reserves B, G, and O, Estancia Addition to the applicant's abutting properties. This must be provided to Planning prior to VAC2016-00009 proceeding to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds and the Sedgwick County Appraisers Office. If covenants are not provided, provide Planning with copies of recorded Warranty Deeds, binding and tying the described vacated portions of Reserves B, G, and O, Estancia Addition to the applicant's abutting properties.
- (5) Provide all utilities with any needed project plans for the relocation of utilities for review and approval. Any relocation/reconstruction of utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number(s) to Planning prior to the case going to City Council for final action.
- (6) All improvements shall be according to City Standards and at the applicants' expense.
- (7) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

MCKAY asked about Commissioner Foster's recommendation that the Planning Commission hear the item.

FOSTER said he was fine if the Planning Commission wanted to take it as a consent item, he just wanted to point out that there were a considerable number of easements, nine in all so he thought the Planning Commission might want to hear the item.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

MCKAY moved, **WARREN** seconded the motion, and it carried (12-0-1). **FOSTER** – Abstained.

PUBLIC HEARINGS

4. **Case No.: ZON2016-00009** - City of Wichita, c/o John Philbrick (applicant) request a City zone change from LI Limited Industrial to CBD Central Business District on property described as:

The North Half of vacated Pearl street adjacent to Lot 22, on Oak Street in West Wichita Addition, Sedgwick County, Kansas.

BACKGROUND: The applicant requests Central Business District (CBD) zoning on .11 platted acres (a portion of vacated Pearl Street) located on the east side of North Oak Street, 300 feet north of West Douglas Avenue. The subject site is currently zoned Limited Industrial (LI), and is vacant. The applicant wishes to match the zoning of this site with the greater City owned parcel to the north. The greater site is designated to become a downtown catalyst development site. The site is located in the Delano District which developed in the 1870's and then redeveloped in the early 1900's when off-street parking requirements did not exist. Therefore, many properties in the Delano District do not have, or have only minimal, off-street parking and rely upon public parking located in the street right-of-way. The site is located within the Delano Neighborhood Revitalization Plan area, but is not within the Delano Overlay Neighborhood District (D-O), which exists one-half block south of the site. CBD zoning mitigates site development issues for older portions of the core area, such as the requirement to provide off-street parking (off-street parking is not required on CBD zoned property) and reduced setback requirements (the CBD district permits zero setbacks; setbacks in the LI district vary from zero to 20 feet).

Properties north, east and west of the site are also owned by the City, are zoned CBD and are primarily vacant. Properties south of the site are a combination of CBD and Limited Commercial (LC) zoning. The properties south of the site are used for warehousing, office and commercial uses. Within the past two years, eight zone changes to CBD have been approved in Delano.

CASE HISTORY: The property is a portion of vacated West Pearl Street, adjacent to lots platted in the West Wichita Addition. The property was included in the Delano Neighborhood Revitalization Plan in 2001.

ADJACENT ZONING AND LAND USE:

North: CBD	Vacant
South: CBD, LC	Warehousing, office and commercial uses
East: CBD	Warehousing
West: CBD	Vacant, warehousing

PUBLIC SERVICES: The site has access to North Oak Street, an unpaved local street with an 80-foot right-of-way at this location. The site is a vacated portion of West Pearl Street, which formerly included rail right-of-way. The Delano Neighborhood Plan calls for a linear parkway, a pedestrian and bike corridor to run immediately north of this site along former rail right-of-way. The site is served by all typical municipal services.

CONFORMANCE TO PLANS/POLICIES: The Delano Neighborhood Plan map depicts the site as appropriate for "commercial service (warehouse)" use. The Project Downtown Plan identifies the site as a catalyst redevelopment site. The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Established Central Area - the downtown core and mature neighborhoods surrounding it in a roughly three-mile radius. The Plan encourages infill development within the Established Central Area that maximizes public investment in existing and

planned infrastructure and services. The Plan promotes downtown as the region's preeminent walkable, mixed-use development area with a focus on office, retail, hospitality, government services, high-density residential, and entertainment, cultural, and civic facilities and activities. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "residential and employment mix," encompassing areas that likely will be developed or redeveloped by 2035 with uses predominately of a mixed nature. Due to the proximity of higher intensity business uses, residential housing types within this area likely will be higher density. Due to the proximity of residential uses, employment uses likely will have limited negative impacts associated with noise, hazardous emissions, visual blight and odor.

The Unified Zoning Code (UZC) states that the purpose of the CBD zoning district is to accommodate retail, commercial, office and other complementary land uses within the downtown core area of Wichita. It is intended for application only within the City of Wichita and only within the downtown core area and certain nearby areas being redeveloped with similar patterns of uses and site development standards such as but not limited to zero lot-line setbacks, shared parking, public streetscapes as landscaping and urban design elements and mixed uses within a building. The application area shares similar patterns of development and uses as the original core CBD area.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED**.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The properties surrounding the subject site are zoned CBD, LC, GC and LI which permit a very wide range of land uses: residential, office, personal service, entertainment and commercial. Properties one-half block south of the site are subject to the D-O overlay district use restrictions and design guidelines.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned LI which permits a wide range of industrial and commercial uses, but requires the provision of off-street parking per the UZC. The site has economic value as currently zoned. Approval of CBD zoning would eliminate the requirement for off-street parking and modify building setback requirements. Approval of CBD zoning would give the applicant unified zoning on their entire ownership.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request should have little if any impact on nearby property owners.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Delano Neighborhood Plan map depicts the site as appropriate for "commercial service (warehouse)" use. The Project Downtown Plan identifies the site as a catalyst redevelopment site. The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Established Central Area - the downtown core and mature neighborhoods surrounding it in a roughly three-mile radius. The Plan encourages infill development within the Established Central Area that maximizes public

investment in existing and planned infrastructure and services. The Plan promotes downtown as the region's preeminent walkable, mixed-use development area with a focus on office, retail, hospitality, government services, high-density residential, and entertainment, cultural, and civic facilities and activities. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "residential and employment mix," encompassing areas that likely will be developed or redeveloped by 2035 with uses predominately of a mixed nature.

5. Impact of the proposed development on community facilities: Approval of the request should generate no additional impacts on community facilities. Existing public infrastructure at the site will accommodate uses under the proposed CBD zoning.

JESS MCNEELY, Planning Staff presented the Staff Report.

DAILEY asked about the alley between Oak and Sycamore Streets and if it would remain an alley.

MCNEELY stated the only property being rezoned is the subject property, which is owned by the City. He said a dedicated alley would be public right-of-way.

MOTION: To approve subject to staff recommendation.

WARREN moved, **RICHARDSON** seconded the motion, and it carried (13-0).

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5. Case No.: ZON2016-00010 - Ray Dot Properties LLC (owner), IBREWCO, LLC d.b.a. Aero Plains Brewing c/o Brent Miller (applicant), Jeff Davidson (agent) request a City zone change from LI Limited Industrial to CBD Central Business District on property described as:

Lots 31, 33, 35, 37 and 39 together with half of the vacated alley adjacent on the West, on Handley Street, West Wichita Addition, Sedgwick County, Kansas .

BACKGROUND: The applicants request Central Business District (CBD) zoning on .41 platted acres located at the southwest corner of West Pearl Street and North Handley Street. The subject site is currently zoned Limited Industrial (LI), and is developed with a warehouse/office building. The 1960 building on the site has zero lot-line setbacks to the north, south and west sides. The east side of the building, facing Handley Street, is set back approximately 44 feet from the east property line; this side of the site is planned for 12 off-street parking spaces (see the applicant's site plan). The proposed use for the site is a micro-brewery with a tasting room, which is permitted under the current LI zoning. The requested CBD zoning would give the applicants maximum flexibility with code required parking and building setback standards. The site is located within the Delano District, a commercial district serving West Wichita with a variety of commercial, personal service and entertainment uses since the 1870's. The site is within the Delano Neighborhood Plan area, but is not within the Delano Overlay Neighborhood District (D-O). The D-O exists immediately south of this site and one block to the west.

The Delano District was initially developed in the 1870's and then redeveloped in the early 1900's when off-street parking requirements did not exist. Therefore, many of the uses in the Delano District do not have, or have only minimal, off-street parking and rely upon public parking located in the street right-of-way. CBD zoning mitigates site development issues for older portions of the core area, such as the requirement to provide off-street parking (off-street parking is not required on CBD zoned property) and

reduced setback requirements (the CBD district permits zero setbacks; setbacks in the LI district vary from zero to 20 feet). The proposed micro-brewery on this site would require 24 parking spaces in the existing LI zoning, the applicant demonstrates 12 off-street parking spaces on their site plan. Public on-street parking is available throughout the Delano area. A paved, eight-space parking area was improved by a previous property owner within the unpaved Pearl Street right-of-way along the north property line. The previous property owner paid for an annual minor street privilege and insurance required by City Engineering. The current property owners and applicants can use the same minor street privilege by meeting City Engineering requirements. A letter from City Engineering to a previous property owner, dated December 1st, 2015, states that the minor street privilege can be cancelled by removing the pavement and a sign that was put in the right-of-way.

A Metropolitan Area Planning Department (MAPD) parking study of West Douglas Avenue between Sycamore Street and Seneca Street reveals that most of the businesses fronting Douglas Avenue do not provide the current code required number of off-street parking spaces. The MAPD analysis estimates that 5,373 off-street spaces are required, but an estimated 3,989 spaces have been provided.

Properties north and west of the site are zoned LI and used for warehousing and offices. Properties south of the site front onto Douglas, they are a combination of General Commercial (GC), Limited Commercial (LC) and CBD zoning. The properties south of the site are used for retail commercial uses. East of the site, across South Handley, is zoned CBD and used for warehousing and retail commercial uses. Within the past two years, eight zone changes to CBD have been approved in Delano.

CASE HISTORY: The property is platted as the West Wichita Addition. The property was included in the Delano Neighborhood Revitalization Plan in 2001.

ADJACENT ZONING AND LAND USE:

North: LI	Warehousing, office uses
South: GC, LC, CBD	Retail commercial uses
East: CBD	Warehousing, retail commercial uses
West: LI	Warehousing, office uses

PUBLIC SERVICES: The site has access to Handley Street, a paved local street with sidewalks and an 80-foot right-of-way at this location. West Pearl Street runs along the north side of the property. Pearl is unpaved at this location with an 80-foot right-of-way, it formerly included rail right-of-way. The Delano Neighborhood Plan calls for this portion of Pearl to become part of a linear parkway, a pedestrian and bike corridor. The site is served by all typical municipal services.

CONFORMANCE TO PLANS/POLICIES: The Delano Neighborhood Plan map depicts the site as appropriate for “commercial mixed use.” The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Established Central Area - the downtown core and mature neighborhoods surrounding it in a roughly three-mile radius. The Plan encourages infill development within the Established Central Area that maximizes public investment in existing and planned infrastructure and services. The Plan promotes downtown as the region’s

preeminent walkable, mixed-use development area with a focus on office, retail, hospitality, government services, high-density residential, and entertainment, cultural, and civic facilities and activities. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "residential and employment mix," encompassing areas that likely will be developed or redeveloped by 2035 with uses predominately of a mixed nature. Due to the proximity of higher intensity business uses, residential housing types within this area likely will be higher density. Due to the proximity of residential uses, employment uses likely will have limited negative impacts associated with noise, hazardous emissions, visual blight and odor.

The Unified Zoning Code (UZC) states that the purpose of the CBD zoning district is to accommodate retail, commercial, office and other complementary land uses within the downtown core area of Wichita. It is intended for application only within the City of Wichita and only within the downtown core area and certain nearby areas being redeveloped with similar patterns of uses and site development standards such as but not limited to zero lot-line setbacks, shared parking, public streetscapes as landscaping and urban design elements and mixed uses within a building. The application area shares similar patterns of development and uses as the original core CBD area.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED** subject to the property owner obtaining a minor street privilege for the paved eight parking spaces along the site's north boundary.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The properties surrounding the subject site are zoned LC, GC, CBD and which permit a very wide range of land uses: residential, office, personal service, entertainment and commercial. Property south and west of the site are subject to the D-O district, which limits land uses and has design guidelines.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned LI which permits a wide range of industrial and commercial uses, but requires the provision of off-street parking per the UZC. The site has economic value as currently zoned. Approval of CBD zoning would eliminate the requirement for off-street parking and modify building setback requirements.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request should have little if any impact nearby property owners. The site is currently developed and has some off-street parking.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval will make the property more marketable with a wider range of possible uses. Denial would presumably represent a loss of economic opportunity to the applicant or property owner.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Delano Neighborhood Plan map depicts the site as appropriate for “commercial mixed use.” The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Established Central Area - the downtown core and mature neighborhoods surrounding it in a roughly three-mile radius. The Plan encourages infill development within the Established Central Area that maximizes public investment in existing and planned infrastructure and services. The Plan promotes downtown as the region’s preeminent walkable, mixed-use development area with a focus on office, retail, hospitality, government services, high-density residential, and entertainment, cultural, and civic facilities and activities. The Plan’s *2035 Wichita Future Growth Concept Map* identifies this location as “residential and employment mix,” encompassing areas that likely will be developed or redeveloped by 2035 with uses predominately of a mixed nature.
6. Impact of the proposed development on community facilities: Approval of the request should generate no additional impacts on community facilities. Existing public infrastructure at the site will accommodate uses under the proposed CBD zoning.

There was brief discussion whether it was Pearl or Pacific Street that was unpaved.

MCNEELY said the GIS Data indicates that Pearl is unpaved; the applicant’s drawing showed it as Pacific as the unpaved street.

MOTION: To approve subject to staff recommendation.

WARREN moved, **RICHRADSON** seconded the motion, and it carried (13-0).

NON-PUBLIC HEARING ITEMS

DIRECTOR MILLER reported that the Planning Department will be moving to the 271 Building the week of September 6 -9. He said staff would like to cancel the September 8, 2016 Planning Commission Hearing. He added that the next meeting was September 22, 2016; however, being cautious, they would like to also cancel the September 22, 2016 hearing and reschedule it to September 29, 2016.

CHAIR NEUGENT asked if elections would be held at that meeting, since they are normally held the first meeting in September.

DIRECTOR MILLER responded yes, and mentioned that the next meeting is October 6, 2016, so staff wasn’t sure how the Commissioners felt about having two “back-to-back” Planning Commission meetings.

He said if the Commission feels this is a reasonable plan, staff will proceed to notify agents and other interested parties. He said the move will also including cancellation of a Subdivision Meeting and movement of a “closing date” to give staff more time to do plats.

MOTION: To cancel the September 8 and September 22, 2016 Planning Commission Hearings, and to reschedule the September 22, 2016 Planning Commission Hearing to September 29, 2016.

DENNIS moved, **TODD** seconded the motion, and it carried (13-0).

The Metropolitan Area Planning Commission adjourned at 1:47 p.m.

State of Kansas)
Sedgwick County) ^{ss}

I, W. Dale Miller, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2016.

Dale Miller, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)